

### REMARKS

This Amendment is fully responsive to the final Office Action dated April 26, 2010, issued in connection with the above-identified application. Claims 7-15, 17, 18, 23, 39 and 44-47 are pending in the present application. With this Amendment, claims 7, 8, 39 and 44-47 have been amended. No new matter has been introduced by the amendments made to the claims. Favorable reconsideration is respectfully requested.

In the Office Action, claims 7-15, 17, 18, 23, 39, 44, 46 and 47 have been rejected under 35 U.S.C. 101 for being directed to non-statutory subject matter.

Specifically, the Examiner alleges that claim 47 is directed to “a computer-readable recording medium,” which could be interpreted as a non-statutory “signal” or “waveform.” The Applicants have amended independent claim 47 to indicate that the program is stored on a “non-transitory” computer-readable recording medium.

With regard to claims 7-15, 17, 18, 23, 30, 44 and 46, the Examiner alleges that the claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 U.S.C. 101.

The Applicants have amended independent claims 44-46 to include additional structure to constitute a machine or a manufacture within the meaning of 35 U.S.C. 101. Specifically, independent claims 44-46 have been amended to recite “a database configured to store content to be distributed, the database being a non-transitory computer-readable recording medium.”

The Applicants note that claim 45 was not among the rejected claims, but similar amendments have been made to independent claim 45 to expedite prosecution of the present application. The remaining rejected claims depend from independent claim 44 and 46. Accordingly, withdrawal of the rejection to claims 7-15, 17, 18, 23, 39, 44, 46 and 47 under 35 U.S.C. 101 is respectfully requested.

In the Office Action, claims 7-15, 18, 23, 39 and 44-47 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Negawa (U.S. Patent No. 7,055,030, hereafter “Negawa”) in view of Day (U.S. Patent No. 7,222,185, hereafter “Day”).

Independent claims 44-47 have been amended to more clearly distinguish the present invention from the cited prior art. For example, independent claim 44 (as amended) recites *inter alia* the following features:

“... at least one distribution server includes a confirmation unit operable to confirm

whether or not the content distributed to said client apparatus is content having a limited number of authorized reproduction times indicated by the usage control data, and a usage control data distribution unit operable to:

(a) distribute the usage control data by a unicast distribution method where the usage control data is distributed in response to a request from said client apparatus, when the number of authorized reproduction times of the content is limited, and

(b) distribute the usage control data to a plurality of client apparatuses including said client apparatus by a multicast distribution method where the usage control data is distributed to said plurality of client apparatuses simultaneously at a predetermined distribution time, when the number of authorized reproduction times of the content is not limited.” (Emphasis added).

The features emphasized above in independent claim 44 are similarly recited in independent claims 45-47 (as amended). Additionally, the features emphasized above in independent claim 44 (and similarly recited in independent claims 45-47) are fully supported by the Applicants’ disclosure (see ¶[0026]-¶[0028]).

The present invention (as recited in independent claims 44-47) is clearly distinguishable from the cited prior art in that a confirmation unit or step confirms whether or not the content distributed to a client apparatus is content having a limited number of authorized reproduction times indicated by usage control data.

Additionally, a usage control data distribution unit or step distributes the usage control data using two different distribution methods. For example, the usage control data is distributed by a unicast distribution method when the number of authorized reproduction times of the content is limited, and the usage control data is distributed by a multicast distribution method when the number of authorized reproduction times of the content is not limited.

In the Office Action, the Examiner relies on the combination of Negawa and Day for disclosing or suggesting all the features recited in independent claims 44-47. However, the Examiner relies on Day for disclosing or suggesting the use of unicast and multicast distribution methods, which the Examiner acknowledges is lacking in Negawa (see Office Action, pg. 5).

However, the Applicants disagree with the Examiner’s interpretation of Day and assert that Day fails to disclose or suggest the unicast and multicast distribution methods of the present invention (as recited in independent claims 44-47).

In the Office Action, the Examiner relies on col. 7, lines 13-21 of Day. Day in col. 7,

lines 13-21 discloses that a system controller selects a transmission mode from a first transmission mode and a second transmission mode for the distribution of content based on content distribution characteristics, wherein the first transmission mode is a unicast transmission and the second transmission mode is a multicast transmission.

However, independent claims 44-47 recite either a device or step that distributes **usage control data by a unicast distribution method** when the number of authorized reproduction times of the content is limited, and distribute the **usage control data by a multicast distribution method** when the number of authorized reproduction times of the content is not limited.

Day in col. 7, lines 13-21 is clearly different from the present invention (as recited in independent claims 44-47) for at least the reasons noted below.

First, independent claims 44-47 recite the use of unicast and multicast distribution methods regarding the distribution of **usage control data**, not content as disclosed in Day.

Second, in col. 7, lines 13-21 of Day, the selection of a first transmission mode or a second transmission mode for the distribution of content is based on content distribution characteristics, wherein the content distribution characteristics relate to the “popularity of content.”

Thus, although Day discloses the use of unicast and multicast distribution transmission modes, the selection of the transmission mode is based on “popularity of content,” not based on the number of authorized reproduction times of the content being limited or not, as recited in independent claims 44-47.

In the Office Action, the Examiner also relies on col. 7, lines 39-60. However, the most relevant portion of col. 7, lines 39-60 merely discloses economically transmitting content by matching the appropriate transmission mode (i.e., a unicast or a multicast transmission mode) of the content based on the popularity of the content.

Again, Day in col. 7, lines 39-60 discloses the use of unicast and multicast distribution transmission modes based on “popularity of content,” not based on the number of authorized reproduction times of the content being limited or not. Additionally, independent claims 44-47 recite the use of unicast and multicast distribution methods regarding the distribution of usage control data, not content as disclosed in Day.

Finally, the Examiner relies on col. 14, line 45 to col. 15, line 5 of Day. However, Day in col. 14, line 45 to col. 15, line 5 suffers from the same deficiencies noted above in col. 7, lines

13-21 and lines 39-60.

Based on the above discussion, Day fails to disclose or suggest a usage control data distribution unit or step that distributes the usage control data using two different distribution methods including: 1) distributing by a unicast distribution method when the number of authorized reproduction times of the content is limited, and 2) distributing by a multicast distribution method when the number of authorized reproduction times of the content is not limited.

As noted above, Negawa is not relied on for disclosing or suggesting the above features of the present invention (as recited in independent claims 44-47). Accordingly, no combination of Negawa and Day would result in, or otherwise render obvious, independent claims 44-47. Likewise, no combination of Negawa and Day would result in, or otherwise render obvious, claims 7-15, 17, 18, 23 and 39 at least by virtue of their dependencies from independent claims 44 and 39.

In light of the above, the Applicants submit that all the pending claims are patentable over the prior art of record. The Applicants respectfully request that the Examiner withdraw the rejections presented in the outstanding Office Action, and pass the present application to issue. Additionally, the Examiner is invited to contact the undersigned attorney by telephone to resolve any remaining issues in the present application.

Respectfully submitted,

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